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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,683	07/02/2004	Markus Gerardus Van Doorn	NL 020003	6582
24737 7590 04/15/2010 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
ANDRAMUNO, FRANKLIN S				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARKUS GERARDUS VAN DOORN

Appeal 2009-011085
Application 10/500,683
Technology Center 2400

Mailed: April 15, 2010

Before DALE M. SHAW, *Division 2 Support Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 24, 2009. A Docketing Notice was mailed and Appeal Number 2009-011085 was assigned on June 2, 2009. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 5 and 6 of the instant application contain functional language that may be indefinite under 35 U.S.C. § 112, second paragraph. *See Aristocrat Techs. Austl. Pty Ltd. v. Int'l Game Tech.*, 521 F.3d 1328 (Fed Cir. 2008); *Ex parte Rodriguez*, 92 USPQ2d 1395 (BPAI 2009). On September 2, 2008, the Deputy Commissioner for Patent Examination Policy, John J. Love, issued a memorandum entitled “Rejections under 35 U.S.C. 112, second paragraph, when examining means (or step) plus function claim limitations under 35 U.S.C. 112, sixth paragraph,” located at: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section_112_6th_09_02_2008.pdf. Thus, there is a question as to whether claims 5 and 6, and the claims which depend upon these claims, meet the requirements of being definite under 35 U.S.C. § 112, second paragraph.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 5 and 6, and the claims which depend upon these claims, meet the requirements of 35 U.S.C. § 112, second paragraph.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

babc

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